

SUBCHAPTER L—COMPASSIONATE PAYMENTS

PART 130—RICKY RAY HEMOPHILIA RELIEF FUND PROGRAM

Subpart A—General Provisions

Sec.

- 130.1 Purpose.
- 130.2 Definitions.
- 130.3 Amount of payments.

Subpart B—Criteria for Eligibility

- 130.10 Who is eligible for payment under the Act—living persons with HIV.
- 130.11 Who is eligible for payment under the Act—survivors of persons with HIV.

Subpart C—Documentation Required for Complete Petitions

- 130.20 Form of medical documentation.
- 130.21 What documentation is required for petitions filed by living persons with HIV?
- 130.22 What documentation is required for petitions filed by survivors of persons with HIV, which are filed in cases where the person with HIV dies before filing a petition?
- 130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?
- 130.24 What additional documentation may the Secretary require to resolve eligibility or payment issues?

Subpart D—Procedures for Filing and Paying Complete Petitions

- 130.30 Who may file a petition for payment or an amendment to a petition?
- 130.31 How and when is a petition for payment filed?
- 130.32 How and when will the Secretary determine the order of receipt of petitions?
- 130.33 How will the Secretary determine whether a petition is complete?
- 130.34 How will the Secretary determine whether to pay a petition?
- 130.35 How and when will the Secretary pay a petition?

Subpart E—Reconsideration Procedures

- 130.40 Reconsideration of denial of petitions.

Subpart F—Attorney Fees

- 130.50 Limitation on agent and attorney fees.

APPENDIX A TO PART 130—DEFINITION OF HIV INFECTION OR HIV

APPENDIX B TO PART 130—CONFIDENTIAL PHYSICIAN OR NURSE PRACTITIONER AFFIDAVIT
APPENDIX C TO PART 130—PETITION FORM, PETITION INSTRUCTIONS, AND DOCUMENTATION CHECKLIST

AUTHORITY: Secs. 101–108 of Pub. L. 105–369, 112 Stat. 3368 (42 U.S.C. 300c–22 note); sec. 215 of the Public Health Service Act (42 U.S.C. 216).

SOURCE: 65 FR 34864, May 31, 2000, unless otherwise noted.

Subpart A—General Provisions

§ 130.1 Purpose.

This part establishes criteria and procedures for implementation of the Ricky Ray Hemophilia Relief Fund Act of 1998 (the Act). This statute provides for compassionate payments to certain individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus (HIV) due to contaminated antihemophilic factor within a specified time period, as well as to certain persons who contracted HIV from these individuals. In the event the individual eligible for payment is deceased, the Act also provides for payments to certain survivors of this individual.

§ 130.2 Definitions.

As used in this part:

(a) *Act* means the Ricky Ray Hemophilia Relief Fund Act of 1998, 42 U.S.C. 300c–22 note, as amended.

(b) *Antihemophilic factor* means any blood product (including, but not limited to, fresh frozen plasma, cryoprecipitate, factor VIII concentrate, and factor IX concentrate) used to treat a blood-clotting disorder.

(c) *Blood-clotting disorder* means a disorder (including, but not limited to, hemophilia and von Willebrand's disease) in which the blood does not clot normally, usually resulting in prolonged bleeding.

(d) *Child with HIV* means the individual described in §130.10(c).

(e) *Former lawful spouse* means a person to whom an individual described in §130.10(a):

(1) Was married according to the laws of the place where the person resided at

§ 130.3

42 CFR Ch. I (10–1–11 Edition)

any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987); and

(2) Is no longer married.

(f) *Former lawful spouse with HIV* means the individual described in § 130.10(b)(2).

(g) *Fund* means the “Ricky Ray Hemophilia Relief Fund,” which is a Trust Fund established in the Treasury of the United States and administered by the Secretary of the Treasury.

(h) *Hemophilia* means a bleeding disorder in which a clotting factor (including, but not limited to, factors VIII or IX) is missing or does not function normally.

(i) *HIV infection* or *HIV* means any of the following:

(1) *For individuals diagnosed with the HIV infection at any age, including infants*: the presence of an opportunistic disease characteristic of AIDS, sufficient to satisfy the definition of HIV infection as set forth in Appendix A to this part; or

(2) *For individuals diagnosed with the HIV infection at over 15 months of age*: the presence of laboratory evidence of HIV based on identification of:

- (i) HIV antibodies;
- (ii) HIV viral antigens;
- (iii) HIV viral cultures; or
- (iv) Plasma HIV RNA; or

(3) *For infants diagnosed with the HIV infection due to perinatal transmission at or before 15 months of age*: identification of the presence of HIV by a positive virologic test (*i.e.*, detection of HIV by culture, HIV antigen, or HIV DNA or RNA polymerase chain reaction [PCR]).

(j) *Individual with a blood-clotting disorder and HIV* means the individual described in § 130.10(a).

(k) *Lawful spouse* means a person to whom an individual described in § 130.10(a) is married according to the laws of the place where the person resides on the date the petition is filed. If the laws of the place where the person resides consider an individual who is legally separated or in a common law marriage to be married, then such a person is a lawful spouse.

(l) *Lawful spouse with HIV* means the individual described in § 130.10(b)(1).

(m) *Perinatal transmission* means transmission of HIV infection from mother to child that occurs during pregnancy, delivery, or breastfeeding.

(n) *Person(s) with HIV* means all of the individuals described in § 130.10(a), (b) or (c).

(o) *Place* means any State of the United States of America, the District of Columbia, and United States territories, commonwealths, and possessions.

(p) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

§ 130.3 Amount of payments.

If there are sufficient amounts in the Fund to make payments, the Secretary will make a single payment of \$100,000 to eligible individuals, as defined in accordance with subpart B of this part.

Subpart B—Criteria for Eligibility

§ 130.10 Who is eligible for payment under the Act—living persons with HIV.

The following individuals are eligible for payment under the Act if they are living at the time that payment is to be made on a petition and have an HIV infection:

(a) An individual who has any form of blood-clotting disorder, such as hemophilia, who was treated with antihemophilic factor at any place defined in § 130.2(o), or at any diplomatic area or military installation of the United States, at any time during the time period from July 1, 1982, to December 31, 1987.

(b) An individual who is:

(1) The lawful spouse of the individual with a blood-clotting disorder and HIV; or

(2) The former lawful spouse of the individual with a blood-clotting disorder and HIV, if the former lawful spouse can assert with reasonable certainty, through medical documentation, transmission of HIV from the individual with a blood-clotting disorder and HIV.